My name is Joseph M. Harrison. I am the President of the American Moving and Storage Association (AMSA) with offices at 1611 Duke Street, Alexandria, VA, 22314. This statement is submitted in response to the Subcommittee's invitation to testify on re-authorization of the Surface Transportation Board (STB or Board) as well as any legislative changes the moving industry believes should be effected to expand the Board's responsibilities. I appreciate the opportunity to present my industry's views on these important subjects.

AMSA is the national trade association of the moving industry. It has approximately 3,000 members nationwide and represents the entire spectrum of the industry including national van lines, their affiliated agents (carriers and non-carriers) and independent regional and national carriers. AMSA's functions include representation and promotion of the interests of the moving industry before federal and state legislative and regulatory bodies. AMSA is a conference of the American Trucking Associations, Inc.

The AMSA structure includes the Household Goods Carriers' Bureau Committee (HGCBC), the tariff publishing and collective ratemaking organization for 2,000 interstate household goods carriers who are regulated by the Department of Transportation Federal Highway Administration (FHWA) and the STB. The Bureau Committee operates pursuant to a collective ratemaking agreement that was previously approved by the Interstate Commerce Commission and continues in effect under 49 U.S.C. § 13703(e) of the ICC Termination Act of 1995.

The moving industry generates revenues of $7 billion annually. It includes approximately 25 national van lines, roughly 1,000 completely independent regulated motor carriers, 4,500 agents of van lines, many of whom are also regulated carriers in their own right (1,000), and 30,000 independent owner-operators who own equipment and contract with carriers to perform much of the physical transportation of household goods. The industry employs roughly 450,000 workers, operates 66,000

trailers, 32,000 tractors and 18,000 straight trucks. We operate in every city, town, borough and hamlet in the United States. In addition to our interstate transportation service we perform the intrastate and local moving and storage services that are required by consumers and industry.

My testimony today will focus on two major points, viz., (1) certain aspects of federal regulation of the moving industry as it has evolved under the statutory scheme put in place by Congress when it enacted the Termination Act, and, (2) the state of intrastate regulation of the moving industry. I address the second point because I understand questions have been raised as to whether it would be appropriate for Congress to further preempt state regulation of the intrastate transportation of household goods.

AMSA supports re-authorization of the STB at the level proposed by the sponsors of S.1802 for not less than three years. We take this position recognizing that we are not fully attuned to the specific budgetary requirements of the agency as it discharges all of its regulatory responsibilities. We are, however, fully aware of the actions of the STB and the DOT Federal Highway Administration (FHWA) since enactment of the Termination Act which prompts us to urge Congress to revisit certain delineations of statutory authority it effected through the Act. During its deliberations on that important legislation, Congress was urged by AMSA not to bifurcate economic regulation of the moving industry between the DOT and the STB. We argued that, to the extent the former regulatory scheme would continue, it should be administered by one agency and not split between two agencies. Our experience since enactment confirms that our concerns on this point were correct. As matters now stand, an ineffective and illogical division of responsibility overshadows regulation of the moving industry. A few examples will make my point.

The STB oversees the tariff publication requirements of household goods carriers (49 U.S.C. § 13702(c)); it has jurisdiction to determine the reasonableness of

carrier rates and charges (49 U.S.C. § 13701(a)), entertains rate complaints (49 U.S.C. § 13702(c)(5)), billing and collecting disputes (49 U.S.C. § 13710) and oversees billing and collecting practices and so-called off-bill discounting (49 U.S.C. § 13708). It also has jurisdiction over van line/agent rate discussions (49 U.S.C. § 13907(d)) and pooling agreements (49 U.S.C. § 14302(c)(4)), carrier limitations of liability for loss or damage (49 U.S.C. § 14706(c)(1)) including collectively made limitations (49 U.S.C. § 14706(f)), and other collective ratemaking activities conducted under approved collective ratemaking agreements (49 U.S.C. § 13703). As can be seen, these statutes primarily affect economic aspects of the industry's business.

On the other hand, putting aside registration and safety matters which are under the jurisdiction of the DOT and, we recognize, should not be disrupted, DOT, quite illogically, has jurisdiction over household goods carrier binding estimates and guaranteed pickup and delivery rates (49 U.S.C. § 13704), credit regulations (49 U.S.C. § 13707), van line responsibility for agent activities (49 U.S.C. § 13907), loss and damage dispute settlement programs (49 U.S.C. § 14708) and regulations that are designed to protect the interests of consumers (49 U.S.C. § 14104). In the case of the consumer regulations, they are, for the most part, published in the Household Goods Carriers' Bureau Committee tariffs the STB is required to oversee. Many are published as a result of statutory or regulatory requirements.

Since enactment of the Termination Act, the STB has acted promptly to address a major issue affecting the rights of consumers in their dealings with household goods carriers. I refer to an STB proceeding[1] which mandated the contents of carrier tariffs and the manner in which carriers may incorporate tariff provisions in their bills of lading provided consumers are notified of the carriers' limitations of liability,

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[1] STB Ex Parte No. 555, Household Goods Tariffs, decided January 22, 1997.

the time period for filing claims for loss or damage and the circumstances authorizing carriers to increase their charges. That same proceeding also prescribed requirements for the posting of tariffs for public inspection and the furnishing of tariffs to consumers upon request.

Unfortunately, my industry's experience with the DOT has not produced similar results. For whatever reason (budgetary or bureaucratic), the Federal Highway Administration has demonstrated that it lacks the initiative to timely discharge its responsibilities under the Termination Act as they bear upon Congressionally mandated regulation of the moving industry. Unlike the former ICC, the FHWA does not assist consumers who require information or assistance in dealing with moving problems. The FHWA staff simply refers consumer inquiries and complaints to the AMSA with the explanation that it does not have the budget or staff to handle such inquiries. The typical advice provided to consumers is to pursue their grievance in court or through the carrier's dispute settlement program. This situation has dramatically increased AMSA's efforts to assist consumers by policing its members' activities. As a result, the Association maintains a dispute resolution program and handles roughly 3,000 consumer inquiries each year.

In a similar vein, the FHWA is moribund when it comes to dealing with consumer related regulations it has been charged by the Termination act to administer. I refer specifically to regulations[2] that, for decades, were administered by the ICC to regulate carrier dealings with consumers. They cover the operational steps of a move that most commonly affect the dealings consumers have with movers such as how estimates of charges must be presented, how the consumer orders the carrier to provide service, carrier liability for loss or damage, collection of charges and other

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[2] 49 C.F.R. Part 375.

important steps.[3] The regulations also direct carriers to provide consumers with a copy of a publication originally prescribed by the ICC, Your Rights and Responsibilities When You Move. It contains advice to consumers on how they should approach a move and their dealings with movers. Notwithstanding concerted efforts by AMSA to bring the consumer regulations and publication in line with the current regulatory scheme, FHWA has failed to act. Repeated inquiries on the status of these matters have not produced any movement on FHWA other than to informally authorize AMSA to reprint the publication for its members' use. AMSA furnished FHWA nearly 20,000 copies for use by its field offices but we are still approaching three years with no formal rulemaking proceeding.

A further example of this problem can be found in the DOT's failure to follow an explicit Congressional directive dealing with mover/consumer loss or damage dispute resolution programs. The Termination Act mandates carrier participation in such programs as a condition of registration. In addition, section 14708(g) of the Act, 49 U.S.C. § 14708(g), directs the Secretary of Transportation, within 18 months after enactment, to conduct a review of such programs, determine if changes are necessary and submit a report to Congress. Although effectiveness of the Termination Act is now in its 27th month, no such review has been conducted and no report has been submitted to Congress. AMSA has offered to assist FHWA in the preparation of such a report, but FHWA has failed to respond to that offer.

It is the position of the AMSA that the situation I have described forces the conclusion that the STB and not the DOT FHWA should be charged with jurisdiction over matters related to economic regulation of the moving industry. Once again I refer

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[3] As noted, many of these regulations are published in tariffs issued by the Household Goods Carriers' Bureau Committee and are subject to the jurisdiction of the STB.

to the specific statutes conferring jurisdiction on the DOT, viz., those covering binding estimates and guaranteed pickup and delivery rates, credit regulations,[4] van line/agent responsibility, loss and damage settlement programs and consumer regulations. Our formal and informal dealings with the STB make it apparent that the Board and its staff possess much of the expertise of the former ICC and its staff and are, therefore, more suited to the task of regulating the moving industry. We urge this Subcommittee to amend the Termination Act to effect a shifting of the responsibilities I have described from the DOT to the STB.[5] We recognize, of course, that funds would have to be appropriated to accomplish this result; however, we do not believe this would entail a major expenditure. AMSA would welcome the opportunity to confer with the Subcommittee's staff in order to provide our views on this point.

No discussion of economic regulation of the moving industry would be complete without an explanation of the industry's dependence upon collective ratemaking and the necessity of retaining antitrust immunity to continue these activities. See 49 U.S.C. § 13703. This is not a self-serving position. We know that the moving industry performs an essential public service that directly affects hundreds of thousands of consumers each year and, to a very large extent, the efficiency of that service is dependent upon collective ratemaking. I will not describe all of the attributes of this system other than to say the entire regulated household goods carrier industry (2,000 carriers) participates in tariffs that contain uniform rules and regulations while enjoying complete freedom to price their services according to their business judgment. In addition, a uniform baseline rate structure allows consumers, commercial shippers

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[4] A petition to amend the credit regulations was filed by the HGCBC with the ICC on May 3, 1995, was transferred to DOT on October 21, 1996, and is still pending.

[5] The specific sections that would be affected by this change are: 49 U.S.C. §§ 13704, 13707, 13907, 14708 and 14104.

and government agencies to make meaningful comparisons when evaluating the pricing proposals of individual movers. AMSA statistics also indicate that in 1996, 353,000 or 30 percent of the 1.2 million personal effect shipments transported by the moving industry required the service of more than one carrier either in linehaul, accessorial or storage service. All carriers that were involved in those joint services collectively agreed upon the rates that were charged for their services. Remove that uniformity and the present system will evolve into a non-uniform, and I submit futile, exercise to evaluate individual carrier price proposals.

The system I have described is also utilized by the Department of Defense, the Nation's largest shipper of personal effects, the General Services Administration and a number of other federal and state government agencies. Also, as a general rule, commercial shippers who bear the expense of relocating their employees through contractual arrangements with movers rely on the 2,000 carrier tariff system as the basis for their contract terms.

The moving industry's collective tariffs are formulated under an agreement that was approved by the ICC and remains in effect by virtue of section 13703(e), 49 U.S.C. § 13703(e), of the Termination Act, which, as I have previously explained, is now under the jurisdiction of the STB. Our concern in this area stems from the fact that approval of the Household Goods Carrier Bureau Committee Agreement will expire on December 31, 1998, unless the STB approves its renewal following application by the HGCB Committee. 49 U.S.C. § 13703(d). In our view the question of continued antitrust immunity for movers should be addressed by Congress and not by the STB. Congress put in place the regulatory system (published tariffs, rate reasonable requirements, mandated regulations and consumer rules that are published in tariffs, etc.) that is inextricably tied to collective ratemaking. While some may have viewed the three years preceding December 31, 1998, as a transitional period, certainly nothing has happened in the moving industry that would render

collective ratemaking obsolete or in any way undermine its utility. If the HGCB Committee rate agreement is not renewed, instead of one tariff applicable to the services of 2,000 carriers, 2,000 individual tariffs will be required to comply with the statute. Such a development will result in regulatory gridlock and a maze of confusing tariff provisions that will seriously disrupt the marketing of household goods carrier services and create a environment that will make it nearly impossible for the STB, FHWA and AMSA to police adherence to the consumer protection regimen mandated by Congress. We therefore urge this Subcommittee to begin the process of removing the 3 year statutory expiration date that is contained in section 13703(d), 49 U.S.C. § 13703(d), of the Termination Act, as it applies to agreements approved for household goods carrier collective ratemaking activities. The moving industry is not opposed to regulation of its collective activities by the STB as is currently contemplated by the statute, 49 U.S.C. § 13703(c). We do, however, believe Congress is better suited to address the need for these activities beyond December 31, 1998, and urge this Subcommittee to amend the Termination Act to remove the current expiration date as it applies to household goods carrier agreements as follows:

> PUBLIC LAW 104-88.--Section 13703(d) of Title 49, The ICC Termination Act of 1995, is amended by inserting ", except an agreement related to the transportation of household goods," following "subsection (a)".

Turning to the issue of federal preemption of state regulation of movers, it is AMSA's position that the states should retain their authority to determine whether and to what extent the transportation of household goods within their boundaries should be regulated. Individual states are obviously in the best position to assess the need for protection of the interests of their citizens based on population, geography,

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[6] Fifteen (15) states no longer regulate movers in the traditional public service

demographics, and other unique characteristics.[6] Having said that, we are aware that since enactment of the Federal Aviation Administration Act of 1994, which preempts state regulation of the prices, routes and services of motor carriers, other than household goods carriers, a number of states are and have been analyzing their regulatory functions in the household goods area. To a large extent the impetus behind these activities comes from the fact that State regulatory commissions have been forced to seriously curtail their motor carrier transportation related activities because of the FAA legislation. This, in turn, has resulted in wholesale abandonment of motor carrier regulation with no specific consideration given to continued regulation of household goods carriers. For example, the Tennessee legislature recently abolished the State public service commission which was also involved in the regulation of movers.

On the other hand, the State of California Public Utilities Commission which regulates the transportation of household goods, recently conducted a rulemaking proceeding at the request of the State legislature to address the transportation of used household goods and personal effects to and from self-service storage facilities. This proceeding was prompted by storage facility operators who argued that the transportation they performed from a consumer's home to storage following the loading of a container by a consumer was not transportation of household

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commission manner although control may have been shifted to a consumer protection agency or a state attorney general. While the number 15 represents 30 percent of the number of states, their populations account for 21 percent of our total population. Most notable among the deregulated States is Florida which has become notorious in its inability to deal with disreputable movers and their practices. The State accounts for 26 percent of the deregulated States' population and while legislative proposals are entertained each year to re-regulate the moving industry, those efforts have not succeeded. As a consequence, local jurisdictions down to the county level have enacted ordinances that regulate movers who operate in their localities.

goods subject to the State's regulation. The California Commission disagreed and recommended to the legislature that an amendment to a pending bill specify that such transportation is subject to regulation under California's existing household goods regulatory program.[8] It also suggested adoption of a number of special statutory provisions that would give consumers specific protections deemed necessary during the course of transportation of household goods to or from a storage facility.

The California Commission believed regulation was essential because the transportation of household goods involves a unique relationship between the mover and the consumer and because the goods are of a highly personal nature involving a relationship that is not characterized by repetitive transactions. These conclusions were reached only after careful consideration of the State's policies and the competing interests of affected parties as developed on a record of written comments and oral argument. And, from the moving industry's perspective, the conclusions reached make good common sense.

Efforts to fashion regulatory loopholes in the form of the size of the shipment or the size of the vehicle used to transport the shipment or the fact that the shipment may be transported to a storage facility do not alter the fact that the goods being transported are the personal effects of consumers. Should a widow who lives in a small apartment and tenders all of her personal possessions for transportation be denied the protections afforded individuals who possess more? Certainly not. Clearly, the transportation of household goods is a uniquely personal service and the consumer protections that apply to that rendering should not be influenced by arbitrary factors such as the size of the equipment utilized or shipment destination. AMSA believes that

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[8] The PUC's decision was issued in R.97-10-050, Order Instituting Rulemaking, Decision 98-02-107, February 19, 1998.

on matters so directly impacting consumers, the individual States are best suited to make informed policy decisions affecting their citizens.